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### APPENDIX A - COPY OF CLAIMS ON APPEAL

OIPE JC177  
 JAN 06 2004  
 PATENT & TRADEMARK OFFICE

re Application of:

Art Unit: 1732

Examiner: **A. R. Kuhns**

Appeal No. \_\_\_\_\_

For: **PROCESS FOR PRODUCING** :  
**FOAMED ARTICLES, ESPECIALLY** :  
**FOAMED ARTICLES FOR** :  
**UPHOLSTERING CAR SEATS** :

COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, VA 22313-1450

For the appeal to the Board of Patent Appeals and Interferences from the decision dated July 8, 2003 of the Primary Examiner finally rejecting claims 8-10, 12, 14 and 16-17 in connection with the above-identified application, Applicant-Appellant submits the following brief in accordance with 37 C.F.R. §1.192.

The inventor, Konstantinos Poulakis, assigned his entire right, title and interest in the patent application to Gottlieb Binder GmbH & Co. of Holzgerlingen, Germany.

2. Related Appeals and Interferences

There are no other related appeals or interferences known to Appellant, Appellant's legal representative, or assignee, which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending Appeal.

3. Status of Claims

Claims 8-10, 12, 14 and 16-17 are pending, are rejected, and are on appeal. The remaining claims, 11 and 13 are objected to as being dependent on a rejected claim, and indicated as being allowable if rewritten in independent form, including all of the limitations of the base claim and any intervening dependent claims.

4. Status of Amendments

No amendments were filed subsequent to the July 8, 2003 Office Action.

5. Summary of the Invention

The present invention relates to a process for producing a foamed part having at least one adhesive closing part 1 with adhesive closing elements 2. The method comprises forming a one-piece, unitary adhesive closing part, placing the adhesive closing part in a foam injection mold 4, and injecting molding material into the mold to produce the foamed part. The adhesive closing part includes a base with adhesive elements extending from one of its surfaces. The base has variable edge portions 5 free of adhesive elements such that the base forms a foam retaining cover 3 projecting laterally beyond an area of the base supporting the adhesive elements. The cover has ferromagnetic components formed as an integral part of it. The adhesive closing part is

placed in the foam mold such that the free ends of the adhesive elements are arranged substantially in one plane with the edge portions of the adhesive closing part and in separable contact with the foam injection mold. The adhesive closing part is releasably retained in place in the foam injecting mold by a retaining mechanism 6.

The present invention also relates to an adhesive closing part 1 for use in a process for producing a foamed part with the adhesive closing part thereon. The closing part comprises a cover 3 and adhesive elements 2. The cover has edge portions 5 and ferromagnetic properties as an integral part thereof. The edge portions have a mold engaging surface on a first side of said cover. The adhesive elements extend from the first side of the cover between the edge portions, with the edge portions being free of said adhesive elements. The adhesive elements have free ends substantially coplanar with the mold engaging surface of the edge portions of the cover. The adhesive elements are formed unitarily as one piece with the cover.

By performing the method and forming the adhesive closing part in this manner, the mounting of the adhesive closing part in the mold to avoid contamination of the adhesive parts by the foamed material is simplified and made more cost effective. Since the adhesive closing part protects itself from the contamination by providing its own cover, no additional covers are necessary. The molding process is simplified and facilitated by the omission of parts that need to be removed to expose the adhesive elements for use. The secure connection of the edge portions to the mold provide an effective seal against infiltration of the molding material. Since the free ends of the adhesive elements are coplanar with the mold engaging surfaces of the edge portions, the adhesive closing part can be suitably mounted in the mold without forming a recess in the mold. Rather, with the method of the present claimed invention and with the adhesive closing part of the present claimed invention, the closing part can be attached to a flat, planar surface of

the mold, i.e., a mold surface without a groove or recess to receive the adhesive elements. The omission of the groove or recess facilitates cleaning of the mold for expediting reuse of the mold.

The ferromagnetic components are embedded in the cover or are in a layer applied to a surface of the adhesive closing part. The layer is formed by a sol-gel process or has an adhesive base material.

The magnetic components are at the edge portions and cooperate with retaining elements in the form of permanent magnets formed as magnetic strips or bars, in the foam injection mold, to generate magnetic fields to hold the edge portions during a foam injection process to form a foam barrier. The edge portions extend along two lengthwise edges of the adhesive closing part, with the adhesive elements being between the edge portions.

The adhesive closing part is formed of a polyamide or a polyolefin material, or is at least in part of textile materials.

6. Issue Presented for Review

The sole issue presented for review is as follows:

Whether claims 8-10, 12, 14 and 16-17 are unpatentable under 35 U.S.C. § 103 over U.S. Patent No. 4,673,542 to Wigner (Wigner patent).

7. Grouping of Claims

The rejected claims do not stand or fall together. In addition to the patentable features of each of independent claim 8 and independent claim 17, each of dependent claims 9, 10, 12, 14 and 16 is patentably distinguished for the additional reasons presented in the following argument section of this brief.

8. Argument

A. The Rejection

Claims 8-10, 12, 14 and 16-17 stand rejected as being unpatentable under 35 U.S.C. § 103 over the Wigner patent. In support of this rejection, the January 22, 2003 Office Action states:

Wigner et al. discloses or suggests the basic claimed process for producing a foam component, the component being provided with an adhesive sealing component with adhesive elements covered by a foam retaining cover with ferromagnetic properties, are received in a foam mold producing the foam component, with the cover being in the form of the adhesive sealing component which is mounted with a variable width edge cover projecting over the area having the adhesive elements and with a retaining mechanism brought in separable contact with the mold, wherein the adhesive elements are mounted in one plane with the edge cover of the adhesive sealing element and the ferromagnetic components are an integral part of the adhesive sealing element. Wigner et al. appear not to teach that the foam is injected into the mold, but such is well known and would have been obvious to one of ordinary skill in the art in order to expediently deliver the foam material to the mold cavity.

Wigner et al. teach or suggest using magnetic retaining elements to hold the cover during foam introduction, as in claim 2, and a surface area having adhesive elements, as in claim 3. Wigner et al. also teach or suggest the use of an adhesive base layer, as in claim 4, permanent magnets as in claim 5, and the adhesive sealing component structure of claim 7. Wigner et al. also teach the use of textile or cloth material 33, as in claim 6, at column 3, line 14.

In further support of this rejection, the July 8, 2003 Action states:

Applicant argues that the Wigner patent does not anticipate or render obvious a one-piece, unitary adhesive closing part with a base or cover and adhesive closing elements, edge portions being free of closing elements and having a mold engaging surface coplanar with the free ends of the adhesive elements. This is not persuasive because Figure 5 of the Wigner patent illustrates edge portions free of adhesive closing elements and also illustrates a mold engaging surface coplanar with free ends of the adhesive

elements (note the position of the side edges 50a and 50b of the liner relative to the free ends of the adhesive elements). Applicant also argues that the steel strip of the Wigner patent does not form a ferromagnetic component which is formed as an integral part of a one piece, unitary adhesive closing part, but, to the examiner, the steel strip is an integral part of the device of the Wigner patent.

Contrary to Applicant's assertion, the Wigner patent does teach or suggest embedded ferromagnetic components, as in claim 9, and the use of such components in a layer, as in claim 10. The Wigner patent also teaches or suggest edge portions, as in claim 12, the use of adhesives, as in claim 14, and the use at least in part of a textile material, as in claim 16 (note the use of cloth backing strip 33).

B. The Wigner Patent

Specifically, the Wigner patent discloses a process of foam molding with a fastener strip assembly 30 or 31. The fastener strip means 31 includes an elongated cloth backing strip 33 secured to a plastic strip 34 having a multiplicity of hooks 34a. Hooks 34a are formed integral with one side of plastic strip 34. A thin plastic liner 50 is provided on the fastener strip assembly 31 to cover the hooks 34a. Liner 50 is adhesively adhered to backing 33 by adhesive 65 to isolate the fastener strip and hooks. A thin steel strip 52 is provided between backing 33 and strip 34 for interacting with mold magnets 46. In this manner, the Wigner fastener strip includes four separate parts that must be connected, i.e., fastener strip 34, liner 50, backing 33 and steel strip 52.

Additionally, as clearly illustrated in Figs. 4-6 of the Wigner patent, a recess 44 is provided in the Wigner mold 40 to receive hooks 34a. In this manner, the free ends of the Wigner hooks 34a are not coplanar with the adjacent surface of the base of strip 34, or the adjacent surface of backing 33.



C. Independent Claims Are Patentably Distinguished Over Wigner Patent

Claims 8 and 17 are patentably distinguishable over the Wigner patent since the Wigner patent does not anticipate or render obvious a one-piece, unitary adhesive closing part with a base or cover and adhesive closing elements, edge portions being free of closing elements and having a mold engaging surface coplanar with the free ends of the adhesive elements. Additionally, the steel strip does not form a ferromagnetic component which is formed as an integral part of the one piece, unitary adhesive closing part.

The Wigner liner 50 does not satisfy any of the claim limitations since it does not have the adhesive elements extending from it. Contrary to the allegations in the July 8, 2003 Office Action, the Wigner side portions 50a and 50b of liner 50 are not coplanar with the free ends of hooks 34a on the separate fastener strip 34. No specific description in the Wigner patent is cited as disclosing this coplanar relationship. Only the illustration of Figure 5 is cited, apparently based on the improper assumption that the drawing is to scale. Since the line side portions 50a and 50b are on bottom or surface 70 of the mold, while hooks 34a extend into recess 44, line side portions 50a and 50b are not arranged substantially in the same plane as the free ends of hooks 34a, as would be required to meet the limitations of claims 8 and 17.

Moreover, the Wigner liner side portions 50a and 50b are part of liner 50 which is a separate member from fastener strip 34 and is only attached to fastener strip 34 by adhesive means 65 and backing strip 33. Thus, liner 50 and fastener strip 34 do not provide a "one-piece, unitary adhesive closing part including a base with adhesive element extending from one surface thereof", and edge portions on that base free of adhesive elements. The combination of backing strip 33, fastener strip 34, adhesive means 65 and liner 50 do not constitute "a one-piece unitary adhesive closing part" as recited in the claims.

The ferromagnetic component of the Wigner fastener strip assembly 31 is steel strip 52 placed between fastener strip 34 and backing strip 33. That steel stack strip is a separate part from backing strip 33, fastener strip 34, liner 50 and adhesive means 65. Thus, the Wigner ferromagnetic component is not an integral part of a cover formed as an one-piece unitary closing part, as claimed.

Additionally, the Wigner fastener strip 34 has its fastener elements extending from the entire width of the element, and thus, does not have edge portions free of adhesive elements, and does not have edge portions which are coplanar with the free ends of the adhesive elements.

When no reference discloses a feature of a claim relied on to distinguish the prior art, there can be no suggestion to modify the prior art to contain that feature. In re Civitello, 339 F.2d 243, 144, USPQ 10 (C.C.P.A. 1964). As stated in W. L. Gore & Associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 1551, 220 USPQ 303, 311 (Fed. Cir. 1983), there must be something in the teachings of the cited patents to suggest to one skilled in the art that the claimed invention would be obvious. Here, there is no teaching in the Wigner patent, or in any other cited patent, of the claimed one-piece unitary structure and claimed edge portions coplanar with the adhesive element free ends. Thus, the rejection is not adequately supported by a clear factual basis, as required. In re Warner, 379 F.2d 1011, 154 USPQ 173 (C.C.P.A. 1967).

Accordingly, claims 8 and 17 are patentably distinguishable over the Wigner patent.

D. Dependent Claims Are Further Distinguished

Claims 9, 10, 12 and 14-16 being dependent upon claim 8, are also allowable for the above reasons. Moreover, these dependent claims recite additional features further distinguishing them over the cited patents. Specifically, the embedded ferromagnetic

components of claim 9, the use of ferromagnetic components in a layer of claim 10, the use of edge portions extending along two lengthwise edges of the adhesive closing part of claim 12, the use of adhesive base material of claim 14, the use of permanent magnets of claim 15, and the use of the materials of claim 16 are not anticipated or rendered obvious by the cited patents, particularly within the overall claimed combination.

Relative to claims 9 and 10, the Wigner steel strip 52 is between the fastener strip 34 and backing strip 33. Thus, strip 52 is not embedded in a one-piece unitary closing part or applied to a surface of that adhesive closing part. Wigner strip is not on a surface of its assembly 31.

Since Wigner fastener strip 34, its sole one-piece unitary closing part with adhesive elements has its adhesive element across its entire width, such strip does not have the claimed edge portions. Liner 50 does not have any adhesive elements as a unitary one piece portion thereof, and thus cannot provide the claimed edge portions.

Relative to claim 14, no adhesive is disclosed for attaching Wigner strip 52 to fastener strip 34.

In view of the foregoing, claims 9, 10, 12, and 14-16 are also allowable.

9. Conclusion

In view of the foregoing, Applicant-Appellant submits that the rejections under 35 U.S.C. § 103 of claims 8-10, 12, 14 and 16-17 are untenable. Thus, Applicant-Appellant requests that these rejections be reversed.

Respectfully Submitted,



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## APPENDIX A - COPY OF CLAIMS ON APPEAL

8. A process for producing a foamed part having at least one adhesive closing part with adhesive elements, comprising the steps of:

forming a one-piece, unitary adhesive closing part including a base with adhesive elements extending from one surface thereof, said base having variable width edge portions free of adhesive elements such that said base forms a foam retaining cover projecting laterally beyond an area of the base supporting the adhesive elements, the cover having ferromagnetic components formed as an integral part thereof;

placing the adhesive closing part in a foam injection mold such that free ends of the adhesive elements are arranged substantially in one plane with the edge portions of the adhesive closing part and in separable contact with the foam injection mold, the adhesive closing part being releasably retained in place in the foam injection mold by a retaining mechanism; and  
injecting molding material into the mold to produce the foamed part.

9. A process according to claim 8 wherein  
the ferromagnetic components are embedded in the cover.

10. A process according to claim 8 wherein  
the ferromagnetic components are in a layer applied to a surface of the adhesive closing part.

11. A process according to claim 8 wherein  
the ferromagnetic components are at the edge portions and cooperate with retaining  
elements in the foam injection mold generating magnetic fields to hold the edge portions during a  
foam injection process to form a foam barrier.

12. A process according to claim 8 wherein  
the edge portions extend along two lengthwise edges of the adhesive closing part, the  
adhesive closing part having the adhesive elements between the edge portions.

13. A process according to claim 10 wherein  
the layer is formed by a sol-gel process.

14. A process according to claim 10 wherein  
the layer has an adhesive base material.

15. A process according to claim 11 wherein  
the retaining elements are permanent magnets in the form of magnetic strips or bars.

16. A process according to claim 8 wherein  
the adhesive closing part is formed of a polyamide or a polyolefin material or is at least in  
part of textile materials.

17. An adhesive closing part for use in a process for producing a foamed part with the adhesive closing part thereon, comprising:

a cover having edge portions and ferromagnetic properties as an integral part thereof, said edge portions having a mold engaging surface on a first side of said cover; and

adhesive elements extending from said first side of said cover between said edge portions, said edge portions being free of said adhesive elements, said adhesive elements having free ends substantially coplanar with said mold engaging surface of said edge portions of said cover, said adhesive elements being formed unitarily as one piece with said cover.